

AMENDMENT UNDER 37 C.F.R. § 1.111,  
AMENDMENT UNDER 37 C.F.R. § 1.48(b) AND  
REQUEST FOR DECLARATION OF INTERFERENCE  
UNDER 37 C.F.R. § 1.607  
U.S. Appln. No. 09/942,763

**REMARKS**

Claims 13-58 are pending in the present application. Claims 1 and 17 have been cancelled.<sup>1</sup> Claims 13, 15, 18, 19, 23, 25, 33, 37, 39, 46 and 47 have been amended. Claims 13-47 were added in the Preliminary Amendment filed with the instant application on August 31, 2001. Claims 48-58 have been added to the application. These claims are equivalent to original Claims 1-11 of the present application which had been pending in parent Application Serial No. 08/472,189.

***I. Response to Office Action dated December 17, 2001***

Referring to page 2 of the Office Action, the disclosure has been objected to because of certain informalities.

In response, Applicants have amended the paragraph inserted before line 1 on page 1 of the specification to address the Examiner's criticisms. Additionally, a replacement Table 1 has been provided.

Accordingly, withdrawal of the objection to the disclosure is requested.

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<sup>1</sup> Applicants provided authorization for the Examiner to cancel Claim 1 in the Preliminary Amendment filed with the Request for the present Application on August 31, 2001. Although the form PTO-326 indicates that Claims 13-47 are pending in the application, the record is somewhat unclear as to the cancellation of Claim 1. Accordingly, Claim 1 has been cancelled herein.

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Additionally, also on page 2 of the Office Action, the Amendment filed August 31, 2001, has been objected to under 35 U.S.C. § 132 as assertedly introducing new matter into the specification.

In response and without admitting the correctness of this objection, Applicants have amended the first paragraph added on page 1 of the specification to delete reference to incorporation by reference of the parent applications.

Accordingly, withdrawal of the objection to the Amendment filed August 31, 2001, is requested.

On pages 2 and 3 of the Office Action, Claims 3, 14 and 16-47 have been rejected under 35 U.S.C. § 112, first paragraph, as assertedly containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventors, at the time the application was filed, had possession of the claimed invention.

First, it is indicated that support for "FeO up to 0.16 (and 0.14) percent by weight" cannot be found in the disclosure. Second, Claim 17, 27, 35 and 44 are criticized with regard to support for "additional ultraviolet absorbing material." Lastly, Claims 18 and 28 are criticized with regard to support for titanium oxide being an UV absorbing material.

In response to the Examiner's first criticism, and again without admitting that this rejection is correct, Applicants have amended the independent claims to recite an amount of FeO of 0.08 to 0.16 percent by weight. Support for the lower limit of FeO of 0.08 is provided by Example 4 (*see*, Table I of the specification). Additionally, dependent Claims 15, 25, 46 and 47

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have been amended accordingly. (Claim 25 has also been amended to correct an error with regard to the amount of  $\text{Co}_3\text{O}_4$  claimed. It should have been 8 to 20 PPM, as supported by page 7 of the specification, line 19.) In view of this amendment, withdrawal of this portion of the rejection is requested.

With regard to the second and third criticism of the claims, Applicants respectfully submit that one skilled in the art would know that titanium dioxide is an ultraviolet absorbing material and performs this function in the compositions of the present invention. This would be readily apparent to one skilled in the art based upon the disclosure at page 4 of the specification, line 20, where it is indicated that "titanium dioxide may be added to the glass," combined with common knowledge in the art. The latter is evidenced by the attached copies of U.S. patents and textbooks (U.S. Patent Nos. 4, 701,425 (Attachment A1) and 4,792,536 (Attachment A2), and *The Handbook of Glass Manufacture*, page 982 (Attachment A3), *The Optical Properties of Glass*, page 11 (Attachment A4), and *Properties and Applications of Glass*, pages 213-215 (Attachment A5)) all indicating that titanium dioxide is an UV absorbing material in the context of glass compositions.

Further, in order to advance prosecution of the present application, Claim 17 has been amended and Claim 18 has been amended to further define the composition recited in Claim 13 as additionally including titanium dioxide present in an amount up to 1.5 wt. % of the glass composition. (Also, Claim 19 has been amended to correct a typographical error ("point is").)

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In view of the foregoing, Applicants respectfully submit that the present claimed invention complies with the requirements of 35 U.S.C. § 112, first paragraph. Accordingly, withdrawal of this rejection is requested.

Referring to page 3 of the Office Action, Claims 13-47 have also been rejected under 35 U.S.C. § 112, second paragraph, as assertedly being indefinite.

Specifically, Claims 13-47 have been rejected under 35 U.S.C. § 112, second paragraph, as assertedly being "incomplete for omitting essential material." It is indicated that the omitted material is the degree of reduction. The Examiner refers to Page 7 of the specification, lines 5-7, where it is indicated that "likewise the degree of reduction is critical and must equal between 21% and 34%," in support of this rejection.

In response and without admitting that this rejection is correct, independent Claims 13, 23, 33, 37 and 39 have each been amended to recite "wherein the percent reduction of the total iron is between 21% and 34%. (Claim 33 has also been amended to correct a typographical error ("AlO<sub>3</sub>").)

In view of the foregoing, withdrawal of this rejection is also requested.

On pages 3 and 4 of the Office Action, Claims 13-47 have been rejected under 35 U.S.C. § 102(a or e) as being anticipated by U.S. Patent No. 6,114,264 to Krumwiede *et al.*

Krumwiede discloses a glass composition having a neutral gray color and a luminous (visible) transmittance within a range that allows the glass to be used in the forward vision areas of a vehicle or as privacy glazing in a vehicle. The glass composition has a standard soda-lime-

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silica flat glass base composition. The glass composition has a luminous transmittance of 60% and higher at a thickness of 3.9 mm, and includes as colorants: 0.30 to 0.70 weight percent  $\text{Fe}_2\text{O}_3$ , no greater than 0.21 weight percent  $\text{FeO}$ , 3-50 ppm  $\text{CoO}$  and 1-15 ppm  $\text{Se}$ .

As explained in detail below, Applicants have copied or substantially copied Claims 1-35 of Krumwiede and submit that an interference between the present application and Krumwiede is appropriate.

Lastly, referring to page 4 of the Office Action, Claims 13-47 have been provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over Claims 1-11 of copending Application No. 08/472,189. It is indicated that although the conflicting claims are not identical, they are not patentably distinct from each other because the scope of the copending claims overlap.

Applicants intend to abandon the '189 Application and, as such, have included Claims 1-11 from the '189 Application into the present application as new Claims 48-58.

In view of the foregoing, withdrawal of this rejection is requested.

***II. The Request for Declaration of an Interference Under 37 C.F.R. § 1.607(a)***

As discussed in detail below, Applicants have copied or substantially copied Claims 1-35 of U.S. Patent No. 6,114,264 to Krumweide *et al.* ("the '264 Patent"). Applicants submit that an interference between the present application and the '264 Patent is appropriate, and declaration of an interference as outlined herein is requested.

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***A. 37 C.F.R. § 1.607(a)(1) - Identity of the Intefering Patent***

Applicant hereby notifies the PTO that in the Preliminary Amendment filed August 31, 2001, they presented Claims 13-47 in the present application, and now request an interference with the '264 Patent. A copy of the '264 Patent is enclosed as Attachment B.

Claims 13-47 correspond to Claims 1-35 of the '264 Patent which issued September 5, 2000.

***B. 37 C.F.R. § 1.607(a)(2) - Presentation of a Proposed Count***

The interfering subject matter between the present application and the '264 Patent relates to neutral tinted glass or so-called "gray glass" suitable for use in, for example, automotive applications. Applicants respectfully submit that an alternative claim format for the Count is appropriate. *Orikasa v. Oonishi*, 10 USPQ2d 1996 (Comm'r Pat. & Trademarks 1989). Attachment C hereto is a proposed count that includes the independent claims of the present application and the '264 Patent, recited in the alternative.

***C. 37 C.F.R. § 1.607(a)(3) - Identification of Claims in the '489 Patent Corresponding to the Proposed Count***

Applicants identify Claims 1-35 of the '264 Patent as corresponding to the proposed Count.

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***D. 37 C.F.R. §1.607(a)(4) - Presentation of Claims Corresponding to the Proposed Count***

Applicants have presented new Claims 13-47 which correspond to the proposed Count.

With regard to any claim of the present application and the '264 Patent identified as corresponding to the proposed Count but not corresponding exactly to the proposed Count, Applicants explain the differences as follows.

With regard to these types of claims, all of the claims of the present application and the '624 Patent identified as corresponding to the proposed count in the present request but which do not correspond exactly to the language of the proposed count, are dependent claims which recite preferred features of interfering subject matter. For example, dependent Claim 14 of the present application recites a composition as claimed in Claim 13 (one of the alternatives of the proposed count), wherein the direct solar heat transmission is at least 12 percentage points below the visible light transmission. Similarly, dependent Claim 2 of the '624 Patent recites a composition as claimed in Claim 1 of that patent (also one of the alternatives of the proposed count), wherein the total solar energy transmittance is 65% or less. All of the dependent claims of the present application and the '264 Patent recite preferred features of the interfering subject matter. As such, they are not discussed in detail here.

***E. 37 C.F.R. § 1.607(a)(5)(i-ii) - Application of New Claims to the Disclosure***

In the Preliminary Amendment filed with the instant application on August 31, 2001, Applicants included a table (Table I) showing exemplary support in the present application for

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new Claims 13-47. This table is repeated below in order to satisfy the requirements of 37

C.F.R. § 1.607(a)(5)(i-ii)<sup>2</sup>.

**TABLE I**

New Claims 13-47	Exemplary Support in the Instant Application																								
<p>13. A neutral gray colored glass composition having a base glass portion comprising:</p> <table> <tr><td>SiO<sub>2</sub></td><td>65 to 80 percent by weight</td></tr> <tr><td>Na<sub>2</sub>O</td><td>10 to 20 percent by weight</td></tr> <tr><td>CaO</td><td>5 to 15 percent by weight</td></tr> <tr><td>MgO</td><td>0 to 10 percent by weight</td></tr> <tr><td>Al<sub>2</sub>O<sub>3</sub></td><td>0 to 5 percent by weight</td></tr> <tr><td>K<sub>2</sub>O</td><td>0 to 5 percent by weight</td></tr> </table>	SiO <sub>2</sub>	65 to 80 percent by weight	Na <sub>2</sub> O	10 to 20 percent by weight	CaO	5 to 15 percent by weight	MgO	0 to 10 percent by weight	Al <sub>2</sub> O <sub>3</sub>	0 to 5 percent by weight	K <sub>2</sub> O	0 to 5 percent by weight	<p>“there is provided an IR and UV absorbing soda lime silica glass of a neutral tint” (4: 2-3); “base glass” (6:28)</p> <table> <tr><td>SiO<sub>2</sub></td><td>65 to 80 %</td></tr> <tr><td>Na<sub>2</sub>O</td><td>10 to 20</td></tr> <tr><td>CaO</td><td>5 to 15</td></tr> <tr><td>MgO</td><td>0 to 10</td></tr> <tr><td>Al<sub>2</sub>O<sub>3</sub></td><td>0 to 5</td></tr> <tr><td>K<sub>2</sub>O</td><td>0 to 5</td></tr> </table>	SiO <sub>2</sub>	65 to 80 %	Na <sub>2</sub> O	10 to 20	CaO	5 to 15	MgO	0 to 10	Al <sub>2</sub> O <sub>3</sub>	0 to 5	K <sub>2</sub> O	0 to 5
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<p>and a colorant portion consisting essentially of:</p> <table> <tr><td>Fe<sub>2</sub>O<sub>3</sub> (total iron)</td><td>0.30 to 0.70 percent by weight</td></tr> <tr><td>FeO</td><td>0.08 to 0.16 percent by weight</td></tr> <tr><td>Co<sub>3</sub>O<sub>4</sub></td><td>3 to 25 PPM</td></tr> <tr><td>Se</td><td>0.5 to 10 PPM</td></tr> </table>	Fe <sub>2</sub> O <sub>3</sub> (total iron)	0.30 to 0.70 percent by weight	FeO	0.08 to 0.16 percent by weight	Co <sub>3</sub> O <sub>4</sub>	3 to 25 PPM	Se	0.5 to 10 PPM	<p>(6:14-24)</p> <p>“the coloring constituents of the present invention: (6; 26-27)</p> <p>“total iron content expressed as Fe<sub>2</sub>O<sub>3</sub> ... of from 0.3 to 0.7% by weight” (4:13-14); 0.08 wt. % FeO (Example 4); 0.16 wt. % FeO (Example 9); “from about 3 to 25 ppm of Co<sub>3</sub>O<sub>4</sub>” (3:22); “0.5 to 10 parts by million (ppm) of Se (4:15-16)</p>																
Fe <sub>2</sub> O <sub>3</sub> (total iron)	0.30 to 0.70 percent by weight																								
FeO	0.08 to 0.16 percent by weight																								
Co <sub>3</sub> O <sub>4</sub>	3 to 25 PPM																								
Se	0.5 to 10 PPM																								
<p>wherein</p> <p>the color of the glass is characterized by a dominant wavelength less than 560 nanometers,</p>	<p>“a dominant wavelength less than 560 nm” (4:7-8)</p>																								

<sup>2</sup> In Table I herein, the Claims are shown after the present Amendment.



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<p>a color purity of no higher than 6 percent and</p> <p>a visible light transmission of 70 percent or greater at a thickness of 4 millimeters,</p> <p>and wherein the percent reduction of the total iron is between 21% and 34%.</p>	<p>"a color purity not greater than 6" (4:8-9)</p> <p>"in a 4 mm thickness, a visible light transmission of at least 70%" (4:4-5)</p> <p>"the degree of reduction ... must equal between 21% and 34%" (7:6-7)</p>
<p>14. The composition as in claim 13 wherein</p> <p>the direct solar heat transmission is at least 12 percentage points below the visible light transmission.</p>	<p>"a direct solar heat transmission at least 12 percentage points below the visible light transmission (4:5-7)</p>
<p>15. The composition as in claim 14 wherein</p> <p>the Fe<sub>2</sub>O<sub>3</sub> concentration is from 0.45 to 0.65 weight percent,</p> <p>the Co<sub>3</sub>O<sub>4</sub> concentration is from 8 to 20 PPM and</p> <p>the Se concentration is from 1 to 5 PPM.</p>	<p>"preferred compositions include ... 0.45 to 0.65% total iron (as Fe<sub>2</sub>O<sub>3</sub>)" (9:8-10)</p> <p>"8 to 20 ppm Co<sub>3</sub>O<sub>4</sub>" (7:19)</p> <p>"1 to 5 ppm Se" (9:11)</p>
<p>16. The composition of claim 13 wherein</p> <p>the color of the glass is characterized by</p> <p>a dominant wavelength in the range of 494 to 560 nanometers and</p> <p>a color purity of no higher than 3%.</p>	<p>Examples 9 and 10 (<i>see</i>, Table I)</p> <p>"color purity ... most preferably no more than 3" (4:9-10)</p>
<p>17. The composition as in claim 13 further including</p> <p>additional ultraviolet absorbing material.</p>	<p>"TiO<sub>2</sub> may be added to the glass" (4:20)</p>
<p>18. The composition as in claim 17 wherein</p>	

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<p>said ultraviolet absorbing material is titanium dioxide</p> <p>present in an amount up to 1.5 wt. % of the glass composition.</p>	<p>“TiO<sub>2</sub> may be added to the glass ...</p> <p>[in the range of] 0 to 1.5 weight percent TiO<sub>2</sub>” (4:20-21)</p>																
<p>19. The composition as in claim 18 wherein</p> <p>said TiO<sub>2</sub> is present in an amount from 0.33 to 1.0 wt. %.</p>	<p>Examples 2 and 10 (Table I)</p>																
<p>20. A glass sheet made from the composition as recited in claim 13.</p>	<p>“glass sheets” (7:12)</p>																
<p>21. The glass sheet as in claim 20 wherein</p> <p>the sheet has a thickness between 1.7 to 5 mm.</p>	<p>“glass sheets” (7:12)</p> <p>“the glass sheets for windshield use are of a thickness in the range of from about 1.7 mm to about 2.5 mm, while those tempered and used as sidelights or back lights are in the range of about 3 mm to about 5 mm thick” (7:16-20)</p>																
<p>22. The glass sheet as in claim 20 wherein</p> <p>the color of the glass is characterized by</p> <p>a dominant wavelength in the range of 494 to 560 nanometers and</p> <p>a color purity of no higher than 3%.</p>	<p>Examples 9 and 10 (<i>see</i>, Table I)</p> <p>“color purity ... most preferably no more than 3” (4:9-10)</p>																
<p>23. A neutral gray colored glass composition having a base glass portion comprising:</p>	<p>“neutral tint” (4:2-3); “base glass” (6:28)</p>																
<table> <tr> <td>SiO<sub>2</sub></td><td>65 to 80 percent by weight</td></tr> <tr> <td>Na<sub>2</sub>O</td><td>10 to 20 percent by weight</td></tr> <tr> <td>CaO</td><td>5 to 15 percent by weight</td></tr> <tr> <td>MgO</td><td>0 to 10 percent by weight</td></tr> </table>	SiO <sub>2</sub>	65 to 80 percent by weight	Na <sub>2</sub> O	10 to 20 percent by weight	CaO	5 to 15 percent by weight	MgO	0 to 10 percent by weight	<table> <tr> <td>SiO<sub>2</sub></td><td>65 to 80 %</td></tr> <tr> <td>Na<sub>2</sub>O</td><td>10 to 20</td></tr> <tr> <td>CaO</td><td>5 to 15</td></tr> <tr> <td>MgO</td><td>0 to 10</td></tr> </table>	SiO <sub>2</sub>	65 to 80 %	Na <sub>2</sub> O	10 to 20	CaO	5 to 15	MgO	0 to 10
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Al <sub>2</sub> O <sub>3</sub> 0 to 5 percent by weight K <sub>2</sub> O          0 to 5 percent by weight	Al <sub>2</sub> O <sub>3</sub> 0 to 5 K <sub>2</sub> O          0 to 5
and a colorant portion consisting essentially of:	(6:14-24) "coloring constituents" (6:26-27)
Fe <sub>2</sub> O <sub>3</sub> (total iron) 0.30 to 0.70 percent by weight FeO                0.08 to 0.16 by weight CoO                3 to 25 PPM Se                  0.5 to 10 PPM NiO                up to 50 PPM	"total iron content expressed as Fe <sub>2</sub> O <sub>3</sub> ... of from 0.3 to 0.7% by weight" (4:13-14); 0.08 wt. % FeO (Example 4); 0.16 wt. % FeO (Example 9); "from about 3 to 25 ppm of Co <sub>3</sub> O <sub>4</sub> " (3:22); "0.5 to 10 parts by million (ppm) of Se (4:15-16); "0 to 50 ppm NiO" (4:20)
wherein  the color of the glass is characterized by  a dominant wavelength in the range of less than 560 nanometers,  a color purity of no higher than 6 percent and  a visible light transmission of 70 percent or greater at a thickness of 4 millimeters,  and wherein the percent reduction of the total iron is between 21% and 34%.	"a dominant wavelength less than 560 nm" (4:7-8)  "a color purity not greater than 6" (4:8-9)  "in a 4 mm thickness, a visible light transmission of at least 70%" (4:4-5)  "the degree of reduction ... must equal between 21% and 34%" (7:6-7)
24. The composition as in claim 23 wherein  the direct solar heat transmission is at least 12 percentage points below the visible light transmission.	"a direct solar heat transmission at least 12 percentage points below the visible light transmission (4:5-7)
25. The composition as in claim 23 wherein	

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the Fe <sub>2</sub> O <sub>3</sub> concentration is from 0.45 to 0.65 weight percent,	"preferred compositions include ... 0.45 to 0.65% total iron (as Fe <sub>2</sub> O <sub>3</sub> )" (9:8-10)
the Co <sub>3</sub> O <sub>4</sub> concentration is from 8 to 20 PPM, and	"8 to 20 ppm Co <sub>3</sub> O <sub>4</sub> " (7:19)
the Se concentration is from 1 to 5 PPM.	"1 to 5 ppm Se" (9:11)
26. The composition of claim 24 wherein  the color of the glass is characterized by  a dominant wavelength in the range of 494 to 560 nanometers and  a color purity of no higher than 3%.	Examples 9 and 10 ( <i>see</i> , Table I)  "color purity ... most preferably no more than 3" (4:9-10)
27. The composition as in claim 23 further including  additional ultraviolet absorbing material.	"TiO <sub>2</sub> may be added to the glass" (4:20)
28. The composition as in claim 27 wherein  said ultraviolet absorbing material is titanium dioxide  present in an amount up to 1.5 wt. % of the glass composition.	"TiO <sub>2</sub> may be added to the glass ...  [in the range of] 0 to 1.5 weight percent TiO <sub>2</sub> " (4:20-21)
29. The composition as in claim 28 wherein  said TiO <sub>2</sub> is present in an amount from 0.33 to 1.0 wt. %.	Examples 2 and 10 (Table I)
30. A glass sheet made from the composition as recited in claim 23.	"glass sheets" (7:12)
31. The glass sheet as in claim 30 wherein  the sheet has a thickness between 1.7 to 5 mm.	"glass sheets" (7:12)  "the glass sheets for windshield use are of a thickness in the range of from about 1.7 mm to about 2.5 mm, while those tempered and

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	used as sidelights or backlights are in the range of about 3 mm to about 5 mm thick" (7:16-20).																								
<p>32. The glass sheet as in claim 30 wherein</p> <p>the color of the glass is characterized by a dominant wavelength in the range of 494 to 560 nanometers and</p> <p>a color purity of no higher than 3%.</p>	<p>Examples 9 and 10 (<i>see</i>, Table I)</p> <p>"color purity ... most preferably no more than 3: (4:9-10)</p>																								
<p>33. A neutral gray colored glass composition having a base glass portion comprising:</p> <table> <tr> <td>SiO<sub>2</sub></td><td>65 to 80 percent by weight</td></tr> <tr> <td>Na<sub>2</sub>O</td><td>10 to 20 percent by weight</td></tr> <tr> <td>CaO</td><td>5 to 15 percent by weight</td></tr> <tr> <td>MgO</td><td>0 to 10 percent by weight</td></tr> <tr> <td>Al<sub>2</sub> O<sub>3</sub></td><td>0 to 5 percent by weight</td></tr> <tr> <td>K<sub>2</sub>O</td><td>0 to 5 percent by weight</td></tr> </table>	SiO <sub>2</sub>	65 to 80 percent by weight	Na <sub>2</sub> O	10 to 20 percent by weight	CaO	5 to 15 percent by weight	MgO	0 to 10 percent by weight	Al <sub>2</sub> O <sub>3</sub>	0 to 5 percent by weight	K <sub>2</sub> O	0 to 5 percent by weight	<p>"there is provided an IR and UV absorbing soda lime silica glass of a neutral tint" (4:2-3); "base glass" (6:28)</p> <table> <tr> <td>SiO<sub>2</sub></td><td>65 to 80 %</td></tr> <tr> <td>Na<sub>2</sub>O</td><td>10 to 20</td></tr> <tr> <td>CaO</td><td>5 to 15</td></tr> <tr> <td>MgO</td><td>0 to 10</td></tr> <tr> <td>Al<sub>2</sub> O<sub>3</sub></td><td>0 to 5</td></tr> <tr> <td>K<sub>2</sub>O</td><td>0 to 5</td></tr> </table>	SiO <sub>2</sub>	65 to 80 %	Na <sub>2</sub> O	10 to 20	CaO	5 to 15	MgO	0 to 10	Al <sub>2</sub> O <sub>3</sub>	0 to 5	K <sub>2</sub> O	0 to 5
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<p>wherein</p> <p>the color of the glass is characterized by a dominant wavelength less than 560 nanometers,</p>	<p>"total iron content expressed as Fe<sub>2</sub>O<sub>3</sub>, ... of from 0.3 to 0.7 % by weight" (4:13-14); "preferred compositions include ... 0.45 to 0.65 % total iron (as Fe<sub>2</sub>O<sub>3</sub>)" (9:8-10); 0.08 wt. % FeO (Example 4); 0.16 wt % FeO (Example 9); "from about 3 to 25 ppm of Co<sub>3</sub>O<sub>4</sub>" (3:22); "0.5 to 10 parts per million (ppm) of Se" (4:15-16)</p> <p>"a dominant wavelength less than 560 nm" (4:7-8)</p>																								

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<p>a color purity of no higher than about 8 percent,</p> <p>a visible light transmission of greater than 70 percent, and</p> <p>a direct solar heat transmission at least 12 percentage points below the visible light transmission at a thickness of 3.9 millimeters,</p> <p>and wherein the percent reduction of the total iron is between 21% and 34%.</p>	<p>“a color purity not greater than 6” (4:8-9)</p> <p>“in a 4 mm thickness, a visible light transmission of at least 70%” (4:4-5)</p> <p>“a direct solar heat transmission at least 12 percentage points below the visible light transmission (4:5-7)</p> <p>“the degree of reduction ... must equal between 21% and 34%” (7:6-7)</p>																								
<p>34. The composition of claim 33 wherein</p> <p>the color of the glass is characterized by</p> <p>dominant wavelengths in the range of 494 to 560 nanometers and</p> <p>a color purity of no higher than 3% at a thickness of 3.9 millimeters.</p>	<p>Examples 9 and 10 (<i>see</i>, Table I)</p> <p>“color purity ... most preferably no more than 3” (4:9-10)</p>																								
<p>35. The composition as in claim 33 further including</p> <p>additional ultraviolet absorbing material.</p>	<p>“TiO<sub>2</sub> may be added to the glass” (4:20)</p>																								
<p>36. A glass sheet made from the composition as recited in claim 33.</p>	<p>“glass sheets” (7:12)</p>																								
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and a colorant portion consisting essentially of:	“coloring constituents” (6:26-27)
<hr/> <div> <div>Fe<sub>2</sub>O<sub>3</sub> (total iron)</div> <div>0.45 to 0.70 percent by weight</div> </div> <div> <div>FeO</div> <div>0.08 to 0.16 percent by weight</div> </div> <div> <div>Co<sub>3</sub>O<sub>4</sub></div> <div>3 to 25 PPM</div> </div> <div> <div>Se</div> <div>0.5 to 10 PPM</div> </div> <hr/>	“total iron content expressed as Fe <sub>2</sub> O <sub>3</sub> , ... of from 0.3 to 0.7 % by weight” (4:13-14); “preferred compositions include ... 0.45 to 0.65 % total iron (as Fe <sub>2</sub> O <sub>3</sub> )” (9:8-10); 0.08 wt. % FeO (Example 4); 0.16 wt % FeO (Example 9); “from about 3 to 25 ppm of Co <sub>3</sub> O <sub>4</sub> ” (3:22); “0.5 to 10 parts per million (ppm) of Se” (4:15-16)
wherein	
the color of the glass is characterized by a dominant wavelength less than 560 nanometers,	“a dominant wavelength less than 560 nm” (4:7-8)
a color purity of no higher than 6 percent and	“a color purity not greater than 6” (4:8-9)
a visible light transmission of greater than 70 percent at a thickness of 4 millimeters,	“in a 4 mm thickness, a visible light transmission of at least 70%” (4:4-5)
and wherein the percent reduction of the total iron is between 21% and 34%.	“the degree of reduction ... must equal between 21% and 34%” (7:6-7)
38. The composition as in claim 37 wherein	
the color of the glass is characterized by	
a dominant wavelength in the range of 494 to 560 nanometers and	Examples 9 and 10 ( <i>see</i> , Table I)
a color purity of no higher than 3 percent at a thickness of 4 millimeters.	“color purity ... most preferably no more than 3 (4:9-10)
39. A neutral gray colored glass composition having a base glass portion comprising:	“neutral tint” (4:2-3); “base glass” (6:28)

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<table> <tr> <td>SiO<sub>2</sub></td><td>65 to 80 percent by weight</td></tr> <tr> <td>Na<sub>2</sub>O</td><td>10 to 20 percent by weight</td></tr> <tr> <td>CaO</td><td>5 to 15 percent by weight</td></tr> <tr> <td>MgO</td><td>0 to 10 percent by weight</td></tr> <tr> <td>Al<sub>2</sub>O<sub>3</sub></td><td>0 to 5 percent by weight</td></tr> <tr> <td>K<sub>2</sub>O</td><td>0 to 5 percent by weight</td></tr> </table>	SiO <sub>2</sub>	65 to 80 percent by weight	Na <sub>2</sub> O	10 to 20 percent by weight	CaO	5 to 15 percent by weight	MgO	0 to 10 percent by weight	Al <sub>2</sub> O <sub>3</sub>	0 to 5 percent by weight	K <sub>2</sub> O	0 to 5 percent by weight	<table> <tr> <td>SiO<sub>2</sub></td><td>65 to 80 %</td></tr> <tr> <td>Na<sub>2</sub>O</td><td>10 to 20</td></tr> <tr> <td>CaO</td><td>5 to 15</td></tr> <tr> <td>MgO</td><td>0 to 10</td></tr> <tr> <td>Al<sub>2</sub>O<sub>3</sub></td><td>0 to 5</td></tr> <tr> <td>K<sub>2</sub>O</td><td>0 to 5</td></tr> </table>	SiO <sub>2</sub>	65 to 80 %	Na <sub>2</sub> O	10 to 20	CaO	5 to 15	MgO	0 to 10	Al <sub>2</sub> O <sub>3</sub>	0 to 5	K <sub>2</sub> O	0 to 5
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<p>and a colorant portion consisting essentially of:</p> <table> <tr> <td>Fe<sub>2</sub>O<sub>3</sub> (total iron)</td><td>greater than 0.45 up to 0.65 percent by weight</td></tr> <tr> <td>FeO</td><td>0.08 to 0.16 percent by weight</td></tr> <tr> <td>CoO</td><td>3 to 25 PPM</td></tr> <tr> <td>Se</td><td>0.5 to 10 PPM</td></tr> <tr> <td>NiO</td><td>up to 50 PPM</td></tr> </table> <p>wherein the glass has a visible light transmission luminous transmittance of greater than 70 percent at a thickness of 4.0 millimeters, and</p> <p>wherein the percent reduction of the total iron is between 21% and 34%.</p>	Fe <sub>2</sub> O <sub>3</sub> (total iron)	greater than 0.45 up to 0.65 percent by weight	FeO	0.08 to 0.16 percent by weight	CoO	3 to 25 PPM	Se	0.5 to 10 PPM	NiO	up to 50 PPM	<p>(6:14-24)</p> <p>“coloring constituents” (6:26-27)</p> <p>“total iron content expressed as Fe<sub>2</sub>O<sub>3</sub>, ... of from 0.3 to 0.7 % by weight” (4:13-14); “preferred compositions include ... 0.45 to 0.65 % total iron (as Fe<sub>2</sub>O<sub>3</sub>)” (9:8-10); 0.08 wt. % FeO (Example 4); 0.16 wt % FeO (Example 9); “from about 3 to 25 ppm of Co<sub>3</sub>O<sub>4</sub>” (3:22); “0.5 to 10 parts per million (ppm) of Se” (4:15-16); “0 to 50 ppm NiO” (4:3)</p> <p>“in a 4 mm thickness, visible light transmission of at least 70%” (4:4-5)</p> <p>“the degree of reduction ... must equal between 21% and 34%” (7:6-7)</p>														
Fe <sub>2</sub> O <sub>3</sub> (total iron)	greater than 0.45 up to 0.65 percent by weight																								
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NiO	up to 50 PPM																								
<p>40. The composition as in claim 39 wherein</p> <p>the color of the glass is characterized by a dominant wavelength in the range of 494 to 560 nanometers and</p> <p>a color purity of no higher than 6 percent at a thickness of 4.0 millimeters.</p>	<p>Examples 9 and 10 (<i>see</i>, Table I)</p> <p>“a color purity ... most preferably not greater than 6” (4:8-9); 4 mm thickness” (4:4)</p>																								
41. The composition of claim 39 wherein																									



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<p>the color of the glass is characterized by</p> <p>a dominant wavelength in the range of 494 to 560 nanometers and</p> <p>a color purity of no higher than 3% at a thickness of 4.0 millimeters.</p>	<p>Examples 9 and 10 (<i>see</i>, Table I)</p> <p>“a color purity ... most preferably no greater than 3” (4:9-10)</p>
<p>42. The composition as in claim 39 wherein</p> <p>the Fe<sub>2</sub>O<sub>3</sub> concentration is from 0.51 to 0.61 weight percent.</p>	<p>Examples 8 and 5 (<i>see</i>, Table I)</p>
<p>43. The composition as in claim 39 wherein</p> <p>the direct solar heat transmission is at least 12 percentage points below the visible light transmission.</p>	<p>“a direct solar heat transmission at least 12 percentage points below the visible light transmission (4:5-7)</p>
<p>44. The composition as in claim 39 further including</p> <p>additional ultraviolet absorbing material.</p>	<p>“TiO<sub>2</sub> may be added to the glass” (4:20)</p>
<p>45. A glass sheet made from the composition as recited in claim 33.</p>	<p>"glass sheets" (7:12)</p>
<p>46. The composition as in claim 39 wherein</p> <p>the Fe<sub>2</sub>O<sub>3</sub> concentration is from 0.51 to 0.61 weight percent,</p> <p>the FeO concentration is from 0.08 to 0.14 weight percent,</p> <p>the Co<sub>3</sub>O<sub>4</sub> concentration is from 5 to 24 PPM,</p> <p>the Se concentration is from 1 to 9 PPM and</p>	<p>Examples 8 and 5 (<i>see</i>, Table I)</p> <p>Examples 2, 4, 5 and 7 (<i>see</i>, Table I)</p> <p>Examples 6 and 8 (<i>see</i>, Table I)</p> <p>Examples 8 and 3 (<i>see</i>, Table I)</p>

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<p>the NiO concentration is 15 to 31 PPM and</p> <p>further wherein</p> <p>said composition has a visible light transmission of 70 percent or greater at a thickness of 4 millimeters.</p>	<p>Examples 3 and 8 (<i>see</i>, Table I)</p> <p>“in a 4 mm thickness, a visible light transmission of at least 70%” (4:4-5)</p>
<p>47. The composition as in claim 33 wherein</p> <p>the Fe<sub>2</sub>O<sub>3</sub> concentration is from 0.51 to 0.61 weight percent,</p> <p>the FeO concentration is from 0.08 to 0.14 weight percent,</p> <p>the Co<sub>3</sub>O<sub>4</sub> concentration is from 5 to 24 PPM and</p> <p>the Se concentration is from 1 to 9 PPM.</p>	<p>Examples 8 and 5 (<i>see</i>, Table I)</p> <p>Examples 2, 4, 5 and 7 (<i>see</i>, Table I)</p> <p>Examples 6 and 8 (<i>see</i>, Table I)</p> <p>Examples 8 and 3 (<i>see</i>, Table I)</p>

***F. 37 C.F.R. § 1.607(c) - Identification of Corresponding Claims in the '264 Patent***

Applicant has presented claims which correspond to claims of the '264 Patent. Applicant identifies below these claims as well as the number of the corresponding '264 Patent claims.

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Newly Presented Claims	Corresponding claims of the '264 Patent
13	1
14	2
15	3
16	4
17	5
18	6
19	7
20	8
21	9
22	10
23	11
24	12
25	13
26	14
27	15
28	16
29	17
30	18
31	19
32	20
33	21
34	22
35	23
36	24
37	25
38	26
39	27
40	28
41	29
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43	31
44	32
45	33
46	34
47	35

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***G. Benefit Dates***

In an interference between the present application and the '264 Patent, Applicant should be accorded benefit of the filing date of parent application Serial No. 08/285,652 filed August 3, 1994, as well as grandparent application Serial No. 08/190,883 filed February 3, 1994, and U.K. priority application (GB 9302186) filed February 4, 1993.<sup>3</sup>

The present application is a continuation under Rule 60 of the '652 Application, and thus the present application contains the same disclosure as the '652 Application. The '652 Application is a continuation-in-part of the '883 Application. The '883 Application claimed benefit under 35 U.S.C. § 119 to the British priority application. The '883 Application is now abandoned and the '652 Application issued on December 26, 1995, as U.S. Patent No. 5,478,783.

Applicants respectfully submit that the British priority application provides support for at least one species within the scope of the proposed count, as can be appreciated from the following.

As discussed in the attached Declaration of Kenneth M. Fyles (Attachment E), one of the co-inventors of the present application as well as the British priority application, at least Examples 7 and 23 of U.K. Application No. 9302186.3 disclose species of glass compositions

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<sup>3</sup> A certified copy of the British priority application was filed by mail in parent application serial no. 08/190,883 (filed February 2, 1994) on July 28, 1994 (mailroom stamped August 1, 1994). A copy of the previously submitted certified priority document is enclosed as Attachment D.

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within the scope of the proposed count. *See*, in particular, paragraphs 7-10 of the Declaration of Mr. Fyles.

The application for the '264 Patent (U.S. Application Serial No. 08/414,165) was filed on March 31, 1995, as a continuation of prior application Serial No. 08/153,246 filed November 16, 1993.

Hence, in an interference between the present application and the '264 Patent, Applicants (Higby *et al.*) should be designated senior party and Krumweide *et al.*, the patentee of the '264 Patent, should be designated junior party.

***H. Designation of Claims***

Claims 1-35 of the '264 Patent should be designated as corresponding to the proposed Count since they all define the same patentable invention as the proposed Count.

Similarly, all of the claims pending in the present application (Claims 13-58) should be designated as corresponding to the proposed Count since they also all define the same patentable invention as the proposed Count.

***III. Amendment Under 37 C.F.R. § 1.48(b)***

Pursuant to 37 C.F.R. § 1.48(b)(1), it is requested that the inventorship of the above-identified application be corrected. Brett E. Penrod, an originally named inventor, is no longer

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an inventor of the invention now being claimed. Deletion of Brett E. Penrod as an inventor is requested.


A check in the amount of the processing fee set forth in 37 C.F.R. § 11.17(i) is attached.

#### ***IV. Conclusion***

Applicants have copied claims from the '264 Patent. Applicants request that an interference be declared between the present application and the '264 Patent using the proposed count and with the claim designations identified herein.

Entry and consideration of this Preliminary Amendment and Request for Declaration of Interference is respectfully requested.

Respectfully submitted,

  
John T. Callahan  
Registration No. 32,607

SUGHRUE, MION, ZINN,  
MACPEAK & SEAS, PLLC  
2100 Pennsylvania Avenue, N.W.  
Washington, D.C. 20037-3213  
Telephone: (202) 293-7060  
Facsimile: (202) 293-7860

Date: April 10, 2002



## APPENDIX

### VERSION WITH MARKINGS TO SHOW CHANGES MADE

#### THE SPECIFICATION:

Please delete the paragraph added before the first line of the specification by the Preliminary Amendment contained in the Request for the present application filed August 31, 2001.

Please amend page 1 of the specification, first paragraph as follows:

This application is a continuation of Application No. 08/472,189 [(Confirmation No. Unknown),] filed June 7, 1995, which is a continuation of Application No. 08/285,652, filed August 3, 1994, which is a continuation-in-part of United States application No. 08/190,883, filed February 3, 1994 [, the disclosure of which are all incorporated herein by reference].

Page 9, delete Table I and insert new Table I

Table I  
Example

	1	2	3	4	5	6	7	8	9	10	11
Total Iron as Fe <sub>2</sub> O <sub>3</sub>	0.5	0.55	0.55	0.31	0.61	0.56	0.56	0.54	0.57	0.51	0.53
FeO	0.11	0.14	0.13	0.08	0.14	0.13	0.14	0.13	0.16	0.12	0.09
% of Total Iron as Fe <sup>2+</sup>	25	29	27	27.2	26	25	27	27	31	27	19
Se	2	7	9	3	2	2	1	1	<1	2	5
Co <sub>3</sub> O <sub>4</sub>	10	10	19	20	12	5	13	24	10	12	13
TiO <sub>2</sub>	1.6	0.33	0.34	-	-	-	-	-	-	1.0	-
NiO	-	-	15	-	-	23	-	31	-	-	-
LT	72	71	71	75	73	76	74	72	74	71	71
DSHT	53	50	51	63	51	54	52	53	50	52	57
UTV	36	45	47	59	51	51	51	53	53	40	46
a*	-5.1	-4.8	-5.2	-2.0	-4.7	-4.9	-5.3	-5.0	-6.2	-5.2	-1.9
b*	7.5	3.2	2.4	0.2	1.5	1.9	0.3	-1.0	-0.8	5.5	4.1
VD	565	546	529	499	512	518	498	499	494	560	569
Purity	6.9	2.4	1.7	0.8	1.3	1.3	2.3	3.3	3.6	4.8	4.0

AMENDMENT UNDER 37 C.F.R. § 1.111,  
AMENDMENT UNDER 37 C.F.R. § 1.48(b) AND  
REQUEST FOR DECLARATION OF INTERFERENCE  
UNDER 37 C.F.R. § 1.607  
U.S. Appln. No. 09/942,763

**IN THE CLAIMS:**

**Claim 1 is cancelled.**

13. (Amended) A neutral gray colored glass composition having a base glass portion comprising:

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SiO <sub>2</sub>	65 to 80 percent by weight
Na <sub>2</sub> O	10 to 20 percent by weight
CaO	5 to 15 percent by weight
MgO	0 to 10 percent by weight
Al <sub>2</sub> O <sub>3</sub>	0 to 5 percent by weight
K <sub>2</sub> O	0 to 5 percent by weight

---

and a colorant portion consisting essentially of:

---

Fe <sub>2</sub> O <sub>3</sub> (total iron)	0.30 to 0.70 percent by weight
FeO	[up] <u>0.08</u> to 0.16 percent by weight
Co <sub>3</sub> O <sub>4</sub>	3 to 25 PPM
Se	0.5 to 10 PPM

---

wherein the color of the glass is characterized by a dominant wavelength less than 560 nanometers, a color purity of no higher than 6 percent and a visible light transmission of 70 percent or greater at a thickness of 4 millimeters, and wherein the percent reduction of the total iron is between 21% and 34%.



AMENDMENT UNDER 37 C.F.R. § 1.111,  
AMENDMENT UNDER 37 C.F.R. § 1.48(b) AND  
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15. (Amended) The composition as in claim 14 wherein the  $\text{Fe}_2\text{O}_3$  concentration is from 0.45 to 0.65 weight percent, the [FeO concentration is from 0.08 to 0.16 weight percent,] the  $\text{Co}_3\text{O}_4$  concentration is from 8 to 20 PPM and the Se concentration is from 1 to 5 PPM.

18. (Amended) The composition as in claim [17 wherein said ultraviolet absorbing material is] 13 further including titanium dioxide present in an amount up to 1.5 wt. % of the glass composition.

19. (Amended) The composition as in claim 18 wherein said  $\text{TiO}_2$  is present [is] in an amount from 0.33 to 1.0 wt. %

23. (Amended) A neutral gray colored glass composition having a base glass portion comprising:

---

$\text{SiO}_2$	65 to 80 percent by weight
$\text{Na}_2\text{O}$	10 to 20 percent by weight
$\text{CaO}$	5 to 15 percent by weight
$\text{MgO}$	0 to 10 percent by weight
$\text{Al}_2\text{O}_3$	0 to 5 percent by weight
$\text{K}_2\text{O}$	0 to 5 percent by weight

---

and a colorant portion consisting essentially of:

AMENDMENT UNDER 37 C.F.R. § 1.111,  
AMENDMENT UNDER 37 C.F.R. § 1.48(b) AND  
REQUEST FOR DECLARATION OF INTERFERENCE  
UNDER 37 C.F.R. § 1.607  
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Fe <sub>2</sub> O <sub>3</sub> (total iron)	0.30 to 0.70 percent by weight
FeO	[up] <u>0.08</u> to 0.16 by weight
Co <sub>3</sub> O <sub>4</sub>	3 to 25 PPM
Se	0.5 to 10 PPM
NiO	up to 50 PPM

---

wherein the color of the glass is characterized by a dominant wavelength in the range of less than 560 nanometers, a color purity of no higher than 6 percent and a visible light transmission of 70 percent or greater at a thickness of 4 millimeters, and wherein the percent reduction of the total iron is between 21% and 34%.

25. (Amended) The composition as in claim 23 wherein the Fe<sub>2</sub>O<sub>3</sub> concentration is from 0.45 to 0.65 weight percent, [the FeO concentration is from 0.08 to 0.16 weight percent,] the Co<sub>3</sub>O<sub>4</sub> concentration is from [22 to 27] 8 to 20 PPM, and the Se concentration is from 1 to 5 PPM.

33. (Amended) A neutral gray colored glass composition having a base glass portion comprising:

---

SiO <sub>2</sub>	65 to 80 percent by weight
Na <sub>2</sub> O	10 to 20 percent by weight
CaO	5 to 15 percent by weight
MgO	0 to 10 percent by weight
Al <sub>2</sub> O <sub>3</sub>	0 to 5 percent by weight
K <sub>2</sub> O	0 to 5 percent by weight

---

AMENDMENT UNDER 37 C.F.R. § 1.111,  
AMENDMENT UNDER 37 C.F.R. § 1.48(b) AND  
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and a colorant portion consisting essentially of:

---

Fe <sub>2</sub> O <sub>3</sub> (total iron)	0.45 to 0.70 percent by weight
FeO	[up] <u>0.08</u> to 0.16 percent by weight
Co <sub>3</sub> O <sub>4</sub>	3 to 25 PPM
Se	0.5 to 10 PPM

---

wherein the color of the glass is characterized by a dominant wavelength less than 560 nanometers, a color purity of no higher than about 8 percent, a visible light transmission of greater than 70 percent, and a direct solar heat transmission at least 12 percentage points below the visible light transmission at a thickness of 4 millimeters, and wherein the percent reduction of the total iron is between 21% and 34%.

37. (Amended) A neutral gray colored glass composition having a base glass portion comprising:

---

SiO <sub>2</sub>	65 to 80 percent by weight
Na <sub>2</sub> O	10 to 20 percent by weight
CaO	5 to 15 percent by weight
MgO	0 to 10 percent by weight
Al <sub>2</sub> O <sub>3</sub>	0 to 5 percent by weight
K <sub>2</sub> O	0 to 5 percent by weight

---

and a colorant portion consisting essentially of:

AMENDMENT UNDER 37 C.F.R. § 1.111,  
AMENDMENT UNDER 37 C.F.R. § 1.48(b) AND  
REQUEST FOR DECLARATION OF INTERFERENCE  
UNDER 37 C.F.R. § 1.607  
U.S. Appln. No. 09/942,763

---

Fe <sub>2</sub> O <sub>3</sub> (total iron)	0.45 to 0.70 percent by weight
FeO	[up] <u>0.08</u> to 0.16 percent by weight
Co <sub>3</sub> O <sub>4</sub>	3 to 25 PPM
Se	0.5 to 10 PPM

---

wherein the color of the glass is characterized by a dominant wavelength less than 560 nanometers, a color purity of no higher than 6 percent and a visible light transmission of greater than 70 percent at a thickness of 4 millimeters, and wherein the percent reduction of the total iron is between 21% and 34%.

39. (Amended) A neutral gray colored glass composition having a base glass portion comprising:

---

SiO <sub>2</sub>	65 to 80 percent by weight
Na <sub>2</sub> O	10 to 20 percent by weight
CaO	5 to 15 percent by weight
MgO	0 to 10 percent by weight
Al <sub>2</sub> O <sub>3</sub>	0 to 5 percent by weight
K <sub>2</sub> O	0 to 5 percent by weight

---

and a colorant portion consisting essentially of:

AMENDMENT UNDER 37 C.F.R. § 1.111,  
AMENDMENT UNDER 37 C.F.R. § 1.48(b) AND  
REQUEST FOR DECLARATION OF INTERFERENCE  
UNDER 37 C.F.R. § 1.607  
U.S. Appln. No. 09/942,763

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Fe <sub>2</sub> O <sub>3</sub> (total iron)	greater than 0.45 up to 0.65 percent by weight
FeO	[up] <u>0.08</u> to 0.16 percent by weight
Co <sub>3</sub> O <sub>4</sub>	3 to 25 PPM
Se	0.5 to 10 PPM
NiO	up to 50 PPM

---

wherein the glass has a visible light transmission luminous transmittance of greater than 70 percent at a thickness of 4.0 millimeters, and wherein the percent reduction of the total iron is between 21% and 34%.

46. (Amended) The composition as in claim 39 wherein the Fe<sub>2</sub>O<sub>3</sub> concentration is from 0.51 to 0.61 weight percent, the FeO concentration is [up] from 0.08 to 0.14 weight percent, the Co<sub>3</sub>O<sub>4</sub> concentration is from 5 to 24 PPM, the Se concentration is from 1 to 9 PPM and the NiO concentration is 15 to 31 PPM and further wherein said composition has a visible light transmission of 70 percent or greater at a thickness of 4 millimeters.

47. (Amended) The composition as in claim 33 wherein the Fe<sub>2</sub>O<sub>3</sub> concentration is from 0.51 to 0.61 weight percent, the FeO concentration is [up] from 0.08 to 0.14 weight percent, the Co<sub>3</sub>O<sub>4</sub> concentration is from 5 to 24 PPM and the Se concentration is from 1 to 9 PPM.